

Before the
Administrative Hearing Commission
State of Missouri

MESHACK, YOURSHACK, &)	
ABEDTOGO/MYA, L.L.C.,)	
)	
Petitioner,)	
)	
vs.)	No. 14-1091 RS
)	
DIRECTOR OF REVENUE,)	
)	
Respondent.)	

DECISION

We dismiss the appeal filed by Meshack, Yourshack, & Abedtogo/MYA, L.L.C. (Petitioner), because we lack jurisdiction to hear it.

Procedure

Petitioner filed a complaint on June 26, 2014, challenging the decision by the Director of Revenue (Director) to reject Petitioner's offer in compromise. The Director filed an answer and motion to dismiss on July 18, 2014. We notified Petitioner that it could file a response to the Director's motion on or before August 4, 2014. On that date, correspondence was filed on behalf of Petitioner, but not by a licensed attorney.

We allowed Petitioner to file the complaint because the mere filing of an appeal from a decision of the Director not considered the practice of law. *See Department of Social Services v. Administrative Hearing Commission*, 814 S.W.2d 700 (Mo. App., W.D. 1991). However, statutory entities like limited liability companies must be represented by licensed attorneys before courts. *Naylor Senior Citizens Housing, LP v. Sides Const. Co., Inc.*, 423 S.W.3d 238 (Mo. banc, 2014); *United States v. Hagerman*, 545 F.3d 579 (7th Cir., 2008) (applying requirement of attorney representation to limited liability company). Representation by a

licensed attorney is also required in order to appear before an administrative tribunal such as this Commission. *Reed v. Labor and Indus. Relations Comm'n*, 789 S.W.2d 19 (Mo. banc 1990); 1 CSR 15-3.250(3).¹ Therefore, we cannot consider the August 4, 2014 correspondence. We note, however, that it does not dispute the facts set forth by the Director in his motion.

We may grant a motion to dismiss for lack of jurisdiction based on the allegations of a complaint. 1 CSR 15-3.436(1)(A) and (3). We find that the following facts, based on Petitioner's complaint, are undisputed.

Findings of Fact

1. On May 13, 2014, Petitioner filed an Offer in Compromise Application with the Director.
2. On May 23, 2014, the Director rejected Petitioner's Offer in Compromise as insufficient.
3. On June 26, 2014, Petitioner filed a complaint with this Commission, appealing the Director's rejection of its Offer in Compromise.

Conclusions of Law

We have jurisdiction over complaints appealing final decisions of the Director. Section 621.050.1.² Section 32.378.1 allows the Director to agree to compromise any tax, interest, penalties, or additions under certain circumstances, such as doubt as to liability or doubt as to collectibility. Under § 32.378.6:

The director's decision to reject or accept an offer of compromise under this section shall be based on consideration of all the facts and circumstances, including the taxpayer's record of overall compliance with the tax laws. **Notwithstanding any provision of law to the contrary, the director's decision shall not be subject**

¹ All references to the CSR are to the Missouri Code of State Regulations as current with amendments included in the Missouri Register through the most recent update.

² RSMo 2000. Statutory citations are to the RSMo Supp. 2013, unless otherwise indicated.

to review by the administrative hearing commission or any court.

(Emphasis added).

An appeal from the Director's rejection of its offer of compromise is clearly the gravamen of Petitioner's complaint, which states:

We are requesting your review and assistance regarding the account of [Petitioner] due to the nature of the rejection of the Offer in Compromise.

However, we do not have the authority to superintend the Director's procedures. *Missouri Health Facilities Review Committee v. Administrative Hearing Comm'n*, 700 S.W.2d 445, 450 (Mo. banc 1985). Our authority is limited to deciding the cases placed within this Commission's jurisdiction by statute. *See Missouri Coalition for the Environment v. Herrmann*, 142 S.W.3d 700, 701 (Mo. banc 2004). "[A]n administrative agency's authority is limited to that granted by statute." *Lagares v. Camdenton R-III School Dist.*, 68 S.W.3d 518, 526-27 (Mo. App., W.D. 2001). Because § 32.378.6 provides that the Director's decision rejecting an offer in compromise shall not be subject to review by this Commission, we have no jurisdiction, and we may take no action other than to exercise our inherent power to dismiss the case. *See Oberreiter v. Fullbright Trucking*, 24 S.W.3d 727, 729 (Mo. App. E.D., 2000).

SO ORDERED on August 5, 2014.

/s/ Karen A. Winn

KAREN A. WINN
Commissioner